

Reply to Office Action of November 4, 2004

Amendments to the Drawings:

The attached sheet of drawing includes added Fig. 3.

Attachment: New Fig. 3 (informal)

Remarks/Arguments

Claims 1-10 are pending in the application. Claims 1, 2, and 5 have been amended. The Amendment is fully supported by the original disclosure. No new matter has been introduced.

Reconsideration and allowance of claims 1-10 is requested.

The objection to Applicant's claim of priority:

The Examiner has objected to Applicant's claim of priority for improper format.

Accordingly, Applicant has adopted the Examiner's suggestion and amended the Cross Reference to Related Application to read as follows: "This application claims the benefit of U.S. Provisional Application Serial No. 60/416,906 filed October 8, 2002."

The objection to the drawings under 37 C.F.R. 1.83(a):

The Examiner has objected to the drawings for not showing each feature of the invention specified in the claims. Specifically, the Examiner has objected to the drawings for failing to show the envelope defined in claim 10.

Accordingly, Applicant has added new Fig. 3 showing an envelope embodiment and amended the specification at page 2, lines 10-27, to discuss this figure.

The objection to claims 1-4 for informalities:

Claims 1-4 have been objected to for informalities by the Examiner.

In response, Applicant has amended claims 1, 2, and 5 to remove reference to "feelings" and replaced it with "feeling", thus providing proper antecedent basis for "the positive feeling" in claim 1 and claim 2. Likewise, Applicant has amended "the recipient" to "a recipient" to provide antecedent basis.

The rejection of claims 1-10 under 35 U.S.C. § 112:

Claims 1-10 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner has

objected to the language of "such as love" and "such as a package" as being indefinite in claim 1. Likewise, the Examiner has objected to "the good feelings" in claim 5 and "the device" in dependent claims 6-8 and 10 for lacking antecedent basis.

Accordingly, Applicant has deleted the "such as love" language from claim 1, amended "such as a package" to read "wherein the receptacle is a package", amended "the good feelings" to read "the special positive feelings", and amended the preamble of claim 5 to recite "a closed container device" to provide proper antecedent basis for "the device" in dependent claims 6-8 and 10.

The rejection of claims 1-10 under 35 U.S.C. § 103:

The Examiner has rejected claims 1-10 under 35 U.S.C. § 103 as being unpatentable over Ledman, et al. (U.S. Pat. No. 4,194,629) in view of Kough (U.S. Pat. No. 5,568,695).

Applicant disagrees with the Examiner's conclusion and traverses the rejection for the following reasons. First, the Examiner has not established a prima facie case of obviousness because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the reference teachings as suggested. Second, the Examiner has also failed to establish a prima facie case of obviousness since the prior art references do not teach or suggest all the claim limitations.

The Examiner has failed to establish that there is a suggestion or motivation to modify Ledman et al., as proposed. Specifically, Applicant's independent claim 1 requires "placing a note on the package", and independent claim 5 contains a similar limitation. Conversely, Ledman, et al., teaches carving the message into the box itself, or placing it within the box (see Fig. 4 of Ledman, et al.). Applicant asserts that this teaching of Ledman, et al., to insert the message within the box teaches away

limitation of "placing a note on the package" so that the package may remain unopened. In view of such a teaching away, there is no motivation or suggestion to combine Ledman, et al, with Kough.

Even if the Examiner can show there is a suggestion or motivation to modify the references as suggested, the prior art references do not teach or suggest all of the claim limitations of the present invention. Specifically, Applicant's independent claim 1 recites that the note include "a request that the package remain unopened but suggesting that the unopened package is filled with the positive feeling", and independent claim 5 recites a similar limitation. The Examiner admits that Ledman, et al., does not disclose such a step, and asserts that such a step is not a patentable feature. Applicant cannot agree. Specifically, the objects of the present invention described in the specification point out that the current invention provides a method and means for expressing positive feelings which will convey an aura of warmth and love to the recipient without opening the container in which the expression of love or other good feeling is delivered. Thus, the step of having a "request that the package remain unopened but suggesting that the unopened package is filled with the positive feeling" is an essential feature of the present invention not shown in either piece of prior art. Accordingly, Applicant asserts that independent claims 1 and 5 are not obvious in view of the proposed combination.

Likewise, dependent claims 2-4 and 6-10 are likewise not anticipated due at least to their dependence on independent claims 1 and 5, respectively.

Conclusion:

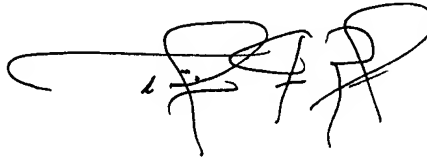
In view of the above amendments and remarks, Applicant believes that claims 1-10 are in condition for allowance, and Applicant respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone

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interview, the Examiner is encouraged to telephone the undersigned at 515-558-0200.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TJZ', with a long horizontal line extending to the left.

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TJZ/JJL/kc

Attachment